

COLORADO STATE BOARD OF PHARMACY
November 20, 2008

Minutes

The Colorado State Board of Pharmacy meeting was convened by President Katherine Edelblut, R.Ph., at approximately 8:36 a.m. on Thursday, November 20, 2008 at 1560 Broadway, Conference Room 1380, Denver, CO 80202. Notice of this meeting was given in accordance with Division of Registrations Policy Number 80-17.

Board members attending were: Mary K. Arceneaux, R.Ph., Jeannine G. Dickerhofe, R.Ph., Rich Doyle, R.Ph., Katherine Edelblut, R.Ph., Leonard Hierath, P.E., Paul Limberis, R.Ph., and Averil Strand, R.N.

Staff members attending were Wendy Anderson, R.Ph., Program Director; Chris Gassen, R.Ph., Chief Inspector; Billie Marseilles, R.Ph., Inspector, Susan Martin, R.Ph., Inspector; and Mark O'Neill, R.Ph., Inspector. Also present were Lesli Lewis, Office of Expedited Settlement, Jo Kaye, Assistant Attorney General, and Jack Wesoky, Assistant Attorney General.

ELECTION OF OFFICERS

A motion was made, seconded and carried to elect Paul Limberis, R.Ph. as President of the Board.

A motion was then made, seconded and carried to elect Jeannine G. Dickerhofe, R.Ph. as Vice President of the Board.

APPROVAL OF MINUTES

The Board approved the minutes from the October 16, 2008 meeting.

ADDITIONS TO THE AGENDA

Intern Applicant Kevin Larson.

Licensing Issue concerning Thomas Gierwatowski, R.Ph. 15786.

Two Inspector Reports concerning Calvin Tyree, R.Ph. 16164.

Inspector Report concerning Avista Family Pharmacy, PDO 651, Calvin Tyree, R.Ph. 16164, and Hysung Yim, R.Ph. 16353.

Inspector Report concerning College Pharmacy, PDO 24-38.

APPEARANCES

Representatives from Regis University School of Pharmacy told the Board about the new pharmacy school which will accept its first class in the fall of 2009. The first class will consist of fifty students.

HEARINGS

The Board conducted a public hearing concerning additions to or amendments to the following regulation: 15.09.11(c) (3 CCR, 719-1). The hearing began at 9:30 a.m. and was held in Conference room 1550 at 1560 Broadway, Denver, Colorado. The Board discussed the proposed change to the rule then adopted the rule as proposed.

REPORTS

President's Remarks

None.

Program Director's Report

Ms. Anderson discussed the May 20, 1999 Memorandum of Understanding ("MOU") between the Colorado Boards of Medical Examiners, Nursing, and Pharmacy. Ms. Anderson explained that much of the document is now inaccurate, obsolete, or irrelevant to current practice. After due consideration, the Board voted to rescind its approval of this MOU.

Ms. Anderson told the Board that it is advisable for Board members to leave the room when they need to recuse from a matter being considered.

She reminded the Board about the intern application of Leif Ellerbeck. The Board had reviewed the application earlier this year and denied the application, preferring to offer Mr. Ellerbeck a stipulated license. Mr. Ellerbeck had then requested his application be withdrawn. Ms. Anderson asked the Board if it was acceptable for the application to be withdrawn. The Board agreed.

Ms. Anderson discussed a waste management meeting she had recently attended at the Colorado Department of Public Health and Environment (CDPHE). She stated that CDPHE inspectors would begin inspecting hospitals in 2009 with respect to waste management and encouraged facilities that were impacted to contact CDPHE if the facility was not already working on a waste management plan.

Ms. Anderson updated the Board on the progress of the Pharmacy Technician Taskforce. She then explained to the Board that it would have several complaints at upcoming meetings regarding licensees that had failed to notify the Board of criminal convictions or deferred judgments as required by law. In addition, she explained to the Board that the license database was compared to criminal databases for sex offenders as well.

Ms. Anderson requested and the Board provided topics for the planning meeting scheduled in February. She then requested guidance from the Board on the handling of non-resident pharmacy applications. The Board gave guidance which will be brought back as a proposed policy at an upcoming meeting. She then discussed issues surrounding dispensing errors. She detailed results from reviewing dispensing errors received by the

Board which suggests that the initial interpretation is the point at which dispensing errors occur most frequently. She solicited suggestions from the Board as to suggestions that might be made during outreach on this issue.

Ms. Anderson told the Board that the National Association of Boards of Pharmacy (NABP) Annual Conference will be held from May 16 to May 19, 2009 in Miami, Florida. She suggested that the Board may wish to change its May 21, 2009 meeting to make it easier for Board Members to attend the conference. The Board agreed. She then updated the Board on the Electronic Prescription Drug Monitoring Program.

Ms. Dickerhofe then described her participation in ACPE's initial accreditation visit at Regis University School of Pharmacy.

Colorado Pharmacists Society (CPS) – Rich Doyle, RPh

In recognition of the National Pharmacist Month in October, CPS staffed phones for Pharmacists Line 9 on October 23, 2008 from 4-5:30 p.m. This event was promoted during the news and the public was encouraged to call a number shown on the screen to speak to a pharmacist. The following pharmacists staffed this event: Erin Hendrick, Jennifer Biltoft, Sarah Bemis, Susan Holsclaw, Julie Kelleher, Holly Monatt, Tara Vlasimsky, Gina Moore and Val Kalnins. Over 150 calls were received during the one and a half hour session. The next Pharmacist Line 9 will be Monday, December 15, 2008 from 4:00-6:30 PM. If you are interested in participating in this event, please contact the CPS office at 303-756-3069.

The next CE program is the 17th Annual Winter CE Seminar, January 18-21, 2009 at the Sheraton Steamboat Springs, where 15 hours of continuing education will be provided. Details are available on the CPS website at www.copharm.org.

CPS and the University of Colorado School of Pharmacy collaborated on providing a brown bag medication review at the Centers for Medicare and Medicaid Services Outreach/Enrollment Event on November 17, 2008 at the Colorado Mills Center. The enrollment event was designed to raise awareness among Medicare consumers and their families and friends and help them to compare and decide regarding their drug/health plan coverage for the upcoming year. Individuals attending this event were also able to participate in the brown bag sessions where they could sit down with pharmacy students/pharmacists to review their current medications.

The next continuing education program being offered by CPS and the School of Pharmacy is the Advances in Pharmacy Practice, February 21, 2009, where the full day program will provide 6 hours of continuing education.

Governor's Expert Emergency Epidemic Response Committee (GEEERC) – Paul Limberis, RPh

None.

Intern & School Relations – Jeannine Dickerhofe, RPh

Cathy Jarvis from the University of Colorado School of Pharmacy reported statistical information from the School. She explained that applications for non-Colorado residents

Pharmacy Board Minutes
November 20, 2008

had increased. The school, however, is interested in having more Colorado residents apply. She explained that the school now requires 90 credits prior to admittance to the school.

Legislation - Jeannine Dickerhofe, RPh.

CPS, RxPlus, Colorado Retail Council, Kaiser Permanente and the Pharmaceutical Manufacturers Association will be meeting with legislators in the next few weeks to offer assistance with the issue of Pharmaceuticals in the Environment (PIE).

The Prescription Project seeks to eliminate conflicts of interest created by industry marketing by promoting policy change among academic medical centers, professional medical societies and public and private payers. They plan to introduce a bill that would prohibit the commercial use of prescriber data, including that used for pharmaceutical detailing. This practice, commonly known as “data mining” is a key tactic used by pharmaceutical companies to tailor their marketing campaigns to individual doctors.

The Prescription Project works with state and federal policy makers, in collaboration with local and national partners and coalitions on addressing the following reforms:

- **Gifts** - Implement limits on industry marketing to prescribers, including physician detailing, samples, and gifts. Establish registries that publicly disclose how much funding physicians receive from pharmaceutical companies.
- **Sale of physician profiles** – Prohibit the sale of prescribing profiles of individual physicians to the drug industry for use in marketing to physicians.
- **Evidence-based prescribing** - Expand the use of evidence-based medicine in prescribing to maximize benefit and minimize risk to patients. Increase the use of evidence-based systematic review systems, such as the Drug Effectiveness Review Project, to evaluate the effectiveness of drugs. Expand the use of generic drugs when appropriate.
- **Physician education** - Initiate academic detailing programs to bring unbiased, evidence-based information on drugs directly to physicians’ offices.
- **Clinical trials** - Create clinical trials registries to improve the evidence on safety and effectiveness of drugs that is available to payers, clinicians and the public.

The Public Health Awareness Task Force (PHATF) will be introducing legislation for establishing a syringe exchange program. This bill may not be introduced until late in the session.

Rules – Rich Doyle

None.

Inspectors

The Board considered two reports regarding Calvin Tyree, R.Ph. The Board voted to initiate a complaint against Mr. Tyree for failing to notify the Board about the filing of a civil matter in California and regarding the allegations in the civil complaint. It then voted to initiate another complaint against Mr. Tyree for misrepresenting details of the closure of Foothill Family Pharmacy (PDO 567). It also voted to initiate another complaint against Mr. Tyree for his alleged failure, as the last pharmacist manager of record of Avista Family

Pharmacy (PDO 651), to properly and timely relocate all of its prescription orders to another pharmacy where patrons and/or practitioners are afforded reasonable access to a pharmacist's interpretation of such orders.

The Board then considered a report regarding Avista Family Pharmacy (PDO 651). After consideration of the available information, the Board voted to initiate a complaint against the pharmacy for failing to have a pharmacist manager. It then voted to initiate another complaint against Avista Family Pharmacy for its failure to properly and timely relocate all of its prescription orders to another pharmacy where patrons and/or practitioners are afforded reasonable access to a pharmacist's interpretation of such orders. In addition, if Board staff could establish that a break in had occurred at the pharmacy without proper notification to the Board, staff should also initiate a third case against the pharmacy. The Board voted to initiate a complaint against Hyesung Yim, R.Ph 16353, for misrepresenting information to the Board that all records from Avista Family Pharmacy were relocated to another pharmacy when it closed. In addition, the Board instructed staff to monitor Ms. Yim's address of record and to initiate another complaint against her license if she failed to change her address of record with the Board within 30 days of the closure of the pharmacy.

The Board then reviewed a report regarding College Pharmacy (PDO 24-38). After consideration of the available information, the Board voted to initiate a complaint against College Pharmacy, Joseph Freund (RPH 16977) and Lynda Jo Budman (RPH 15314). In addition, Board directed staff to ascertain if physicians could self-prescribe in that state. If they cannot, Board directed staff to initiate another complaint against Fruend and a complaint against Stacy Griffin (RPH 15196).

OLD BUSINESS

Stipulations

Bacon, Bryan, IN #2003423

The Board reviewed an Agenda Memorandum from Tia Johnson, Complaint/Licensing Analyst, concerning Mr. Bacon's request for discharge from the terms of his Stipulation and Final Agency Order. After due consideration of the available information, the Board referred the matter for a stipulated pharmacist license.

Levulis, Kevin A, RPH 13200

Mary Arceneaux recused.

The Board reviewed a request for stipulation modification and referred the matter for the drafting of a new stipulation.

Requests from Patricia M. Lanius Paul Limberis recused.

The Board reviewed two requests from Ms. Lanius regarding return to stock medications. After due considerations of each, the Board denied them.

NEW BUSINESS

Complaints

Chesler, Lori A, RPH 11238 **2009-0901**

A motion was made, seconded, and carried to dismiss the case as being without merit.

Dickerhofe, Bruce J., RPH 16329 **2009-0673**

Jeannine Dickehofe recused.

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Doherty, Robert J., RPH 16511 **2009-0735**

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Doherty, Robert J., RPH 16511 **2009-0947**

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Dolence, Stephanie, RPH 15833 **2009-0291**

A motion was made, seconded, and carried to dismiss the case as being without merit.

The Board voted to send a letter of guidance to Wal-Mart Pharmacy #10-2279 (PDO 32-50).

Gumone, Lorine J., RPH 14606 **2009-0943**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

St. Mary's Hospital Pharmacy, PDO 53-15 **2009-0944**

A motion was made, seconded, and carried to dismiss the case. The Board found that there was no reasonable cause to warrant further action at this time.

Freeman, Jo A., RPH 10525 **2009-0672**

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Levulis, Kevin A., RPH 13200 **2009-1110**

Mary Arceneaux recused.

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Rowland, Susan E., RPH 17599 **2009-0838**

A motion was made, seconded, and carried to dismiss the case as being without merit.

Schultz, Benjamin J., IN 2003258

2008-3433

A motion was made, seconded, and carried to dismiss the case as being without merit.

UnitDrugCo., WHI 6015

2009-0684

A motion was made, seconded, and carried to dismiss the case as being without merit.

Walgreen Pharmacy #11321, PDO 747

2009-1167

After due consideration of the available information, the Board voted to refer the case for discipline.

LICENSING

Other Outlets, New

The Board approved the registration of 1 new other outlet.

Prescription Drug Outlets, New (In-State)

The Board approved the registrations of 5 new in-state prescription drug outlets.

Prescription Drug Outlets, New (Out-of-State)

The Board approved the registrations of 9 new nonresident prescription drug outlets.

Manufacturers, New

The Board approved the registrations of 0 new manufacturers.

Wholesalers, New (In-State)

The Board approved the registrations of 0 new in-state Wholesalers.

Wholesalers, New (Out-of-State)

The Board approved the registrations of 6 new out-of-state Wholesalers.

Licensure by Examination

The Board ratified the licensure of 5 applicants for licensure by examination.

Licensure by License Transfer

The Board ratified the licensure of 19 applicants seeking licensure through license transfer. It was noted that these licensees met all of the requirements for licensing under the provisions of section 12-22-116, C.R.S.

Licensure Issues

APP Pharmaceuticals, LLC, Out of State Wholesaler Applicant

After review of the available information, the Board voted to deny the application, referring the matter for discipline.

DVM Resources, Out of State Wholesaler Applicant

After review of the available information, the Board voted to deny the application, referring the matter for discipline.

Patterson Logistics Services, Inc., Out of State Wholesaler Applicant

After review of the available information, the Board voted to deny the application, referring the matter for discipline.

Bacon, Bryan L., Pharmacist Applicant

After review of the available information, the Board voted to refer the application for drafting of a stipulation.

Wiezorek, James. M., Pharmacist Applicant

After review of the available information, the Board voted to issue the license.

Kevin Larson, Pharmacy Intern Applicant

The Board reviewed an Agenda Memorandum from Ms. Johnson. After due consideration of the available information, the Board voted to issue the license.

Patient Care Pharmacy, Inc., Non-Resident Pharmacy Applicant

After review of the available information, the Board voted to issue the license.

Thomas P. Gierwatowski, RPH 15786, Misdemeanor Conviction

After review of the available information, the Board voted to note the information and that no further action is necessary.

MISCELLANEOUS

Correspondence, etc.

Omnicare of Pueblo, PDO 104-40

After due consideration, the Board agreed to allow Omnicare of Pueblo's request to maintain both its LTCF chart orders and prescription orders in the same manner in which it approved of its maintenance of LTCF chart orders at the Board's July 20, 2006 meeting. This agreement, however, was made under the following condition:

Omnicare of Pueblo must obtain Board staff's approval to electronically maintain all prescription and LTCF chart orders (except those for schedule II controlled substances) in compliance with Board Policy 30-1 (attached) within 90 days. If Omnicare of Pueblo fails to do so, it must retroactively file the past 2 years worth of all of its orders in the manner prescribed in Board Rule 11.04.10.

Ryan Haight Online Pharmacy Consumer Protection Act of 2008

The Board noted the new Federal law.

Correspondence from Drug Enforcement Administration

After due consideration, the Board directed staff to draft a policy regarding changes to Schedule II Controlled Substance Orders.

NABP Reports of the First and Second Task Forces on Prescription Drug Diversion from Common Carriers

After due consideration, the Board directed staff to review the reports as well as the Board rules and see if changes might be necessary.

Palisade Pharmacy, PDO 101-1

The Board reviewed the theft and loss report, deciding that no further action was required.

Peer Assistance Services, 2007-2008 Independent Financial Audit

The Board noted the correspondence.

Peer Assistance Services, 1st Quarterly Report

The Board noted the correspondence.

EXECUTIVE SESSION

Board President Katherine Edelblut moved that the Board enter into executive session as authorized by CRS 24-6-402 subsection (3)(a) roman (III) to discuss matters which are required by law to be kept confidential. Specifically, the provisions of law requiring these matters to be kept confidential are:

CRS 24-4-402 subsection (3)(a) romans (II) and (III), and section 13-90-107(b), which protect as confidential communications with counsel that are matters of pending or imminent litigation, or are otherwise subject to the attorney-client privilege, and CRS 25-1-1201 et sequitor, which protects the confidentiality of information pertaining to individual medical records.

The motion was unanimous.

Case Status Reports

The Board discussed the case status report from Leslii Lewis, Office of Expedited Settlement.

The Board read and discussed the November 20, 2008 case status report from Ms. Kaye.

The Board discussed all items referred to it earlier in the meeting as well as matters confidential by law.

Open Session

The Board voted to accept PR08-DH into the REC.

2009-0676

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

2009-0837

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

2009-1025

After due consideration of the available information, the Board voted to issue a Letter of Admonition for violations of the Pharmaceuticals and Pharmacists Act and Board regulations.

Request from King Soopers/City Market Regarding off-site Immunizations

This matter was tabled at the October 2008 meeting pending additional information. After due consideration of the information provided, the Board denied the request.

ADJOURNMENT

The Board adjourned at approximately 3:55 p.m.

Approved by Katherine Edelblut, R.Ph., President

Date: January 15, 2009